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May 12, 2009

AGENDA ITEM 4b

TO: MEMBERS OF THE HEALTH BENEFITS COMMITTEE

I. SUBJECT: Assembly Bill 468 (Hayashi)—As Introduced

Alameda County Transportation Improvement Authority Health Vesting Schedule

Sponsor: Alameda County Transportation Improvement Authority (ACTIA)

II. PROGRAM: Legislation

III. RECOMMENDATION: Neutral, If Amended

Staff recommends technical changes to make the language more consistent with the health vesting schedules already in statute.

IV. ANALYSIS:

Assembly Bill 468 would create a specific vesting schedule and employer contribution amount for annuitant health care premiums for ACTIA employees hired on or after November 1, 2004. Based on the proposed vesting schedule, an employee must work five years to become vested and receive 50 percent of the employer contribution amount for annuitant health care. The vesting schedule would increase by five percent for each subsequent year of service until the employee is fully vested and receives 100 percent of the employer contribution amount after 15 years. AB 468 specifies that the employer contribution amount for annuitants will not exceed 100 percent of the weighted average of health benefit plan premiums for employee or annuitants enrolled for self alone.

Background

Alameda County Transportation Improvement Authority

ACTIA was created in 2002 to deliver new transportation projects and programs throughout Alameda County for a fixed 20-year term. It is funded by a voter-approved half-percent transportation sales tax which will equal more than $3 billion in revenue. ACTIA operates with nine unrepresented employees and is governed by an eleven-member Board of Alameda County elected officials. The agency is set to sunset in 2022. ACTIA currently has nine employees and three retirees.

In 2005, ACTIA contracted with CalPERS to provide health benefits to its employees and annuitants. The employer contribution for current employees is based on the single party basic rate for Kaiser-Bay Area ($508 per month). Although dependents are eligible to participate in the CalPERS health program, ACTIA does not contribute towards the dependents premium. However, ACTIA's employer contribution for annuitant health care benefits is based on the graduating vesting schedule available to contracting agencies under Public Employees' Medical and Hospital Care Act (PEMHCA) which does include an employer contribution for dependents' health care. Currently, the contribution for an annuitant is $478, annuitant plus one is $909, and annuitant plus family is $1167.

In 2004, prior to contracting with CalPERS, ACTIA's Board deliberated on and approved a graduated vesting schedule. However, the adopted vesting schedule must be codified in PEMHCA through the legislative process before ACTIA could officially contract for this option. In the interim, ACTIA employees hired on or after the date the Board approved its vesting schedule were required to sign a contract authorizing ACTIA to change their vesting schedule, should the legislation be chaptered.

Contract Options Available to All Contracting Agencies

CalPERS' Board of Administration administers the PEMHCA. Under PEMHCA, contracting agencies may contract with CalPERS to provide health care benefits for their employees and annuitants if the contracting agency and each employee or annuitant contributes a portion of the health care premium.

Agencies must offer health care to both active and retired employees. In both cases, the employer must provide a contribution to the employees' cost of health care when active and when retired.

Employees must work for an employer for a specified period of time prior to receiving the full contribution for health care premiums in retirement. This is generally referred to as "vesting" for the employer contribution, and is subject to collective bargaining between the employer and employee groups.

The CalPERS program provides for three vesting options for contracting agencies:

- Government Code section 22893 allows a contracting agency to determine the employer contribution amount for annuitants based on a pre-set "vesting schedule". Under this option, an employee must work at least 10 years to become vested for any portion of the employer contribution and must work 20 years to become 100 percent vested. The program does not provide for modifications to the vesting schedule. The current schedule is displayed below.

Credited Years of Service	Percentages of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

- A contracting agency may elect a vesting schedule where employees are fully-vested and receive 100 percent of the employer contribution at the time of retirement, regardless of the number of years of service to that employer.

- School employers have a contract option that is not available to other public agencies. This option allows school employers to use collective bargaining to establish an employer contribution amount for annuitants. A Memorandum of Understanding (MOU) would establish the employer contribution and would only apply to those employees who retire subsequent to the MOU effective date. (Government Code Section 22895)

Governmental Accounting Standards Board Statement 45 (GASB 45)

GASB 45 requires governmental entities to account for, on their financial statements, the estimated costs and liabilities associated with post-employment health benefits for current and future retirees. This has had a major impact on agencies as they must now schedule investment activity to meet this liability, establish a current budget liability, or otherwise mitigate the impact of these future evaluations. One method of doing this is to re-negotiate the vesting schedules for retirees to obtain a portion of the employer's contribution for health care in retirement. However, the current vesting options are more than 20 years old and do not always meet current needs.

Proposed Changes

AB 468 would add Government Code section 22898 to PEMHCA to codify the ACTIA Board-approved post-retirement health vesting schedule and employer contribution amount for post-retirement health benefits for employees hired after November 1, 2004. Specifically, this bill:

- Requires ACTIA to pay a 50 percent employer contribution after five years of credited service, and increase the contribution by five percent each subsequent year until the contribution reaches 100 percent (after 15 years). The proposed vesting schedule is below.

Credited Years of Service	Percentages of Employer Contribution
5	50
6	55
7	60
8	65
9	70
10	75
11	80
12	85
13	90
14	95
15 or more	100

- Specifies that the employer contribution will not exceed 100 percent of the weighted average of health benefit plan premiums for employee or annuitants enrolled for self alone.

- Defines "credited service" as "state service" consistent with the Public Employees' Retirement Law.

Legislative History

2009 SB 628 (Ashburn) – Would authorize a county board of supervisors to contract with the CalPERS to provide a two-tiered health benefit system and would establish this two-tiered system for annuitants on a date specified by the Board of Supervisors. *CalPERS' Position: The Board has not yet taken a position.*

2008 AB 524 (Hancock) – Would have given the West County Wastewater District a contract option to provide an employer contribution at the 100/90 formula for post-retirement health coverage if the employee completes at least 10 years of state service with at least five years of service with the District at retirement. This provision only applies to district employees who are first hired on or after January 1, 2009. The Governor vetoed this bill as a result of the Legislature's delay in passing the 2008-09 budget. *CalPERS' Position: Support.*

1998 Chapter 996 (AB 2764, PER&SS) – This bill established health vesting provisions for public agencies and school districts by enabling all contracting public agencies to provide employer contributions toward the health benefit premium cost based upon the length of employment with that employer. CalPERS suggested non-substantive amendments. The City of Concord, County of Santa Clara and other public agencies supported this bill. There was no opposition to this bill. *CalPERS' Position: Support, with (non-substantive, technical) amendments.*

1997 Chapter 951 (AB 1595, Knox) – This CalPERS omnibus bill included a provision allowing the City of Fontana, Alameda County Water District and the City of Lincoln to contract for the vesting schedule for retiree health benefits established by Chapter 946 (1995). *CalPERS' Position: Sponsor*

1995 Chapter 326 (AB 1506, Kuehl) – This bill permitted the Santa Monica Community College District and the Mt. San Antonio Community College District to enter into collective bargaining negotiations to agree to specified conditions regarding employer contributions for post-retirement health care benefit coverage. This bill was supported by affected colleges, School Services of California and the California School Employees Association. There was no opposition to this bill. *CalPERS' Position: Neutral, if amended (technical amendments)*

Chapter 946 (SB 1946, Leslie) – This bill permitted the Calaveras County Water District to apply a vesting requirement that employees would have to meet before they became eligible to receive an employer contribution toward post-retirement health benefits. The vesting requirement is identical to the one used by the State. *CalPERS' Position: Neutral*

Issues

1. Arguments by Those in Support:

According to the sponsor, "ACTIA was created with the passage of Measure B in 2000, to administer a half-cent sales tax program dedicated to funding transportation projects and programs. In Alameda County ACTIA is an independent entity that will cease to exist in 2022. ACTIA contracts with CalPERS to implement PEMHCA laws and regulations in the administration of its retiree health benefits. Unfortunately, existing PEMHCA law does not provide flexibility to address the fact that ACTIA sunsets in 2022, which produces unique staff recruitment challenges."

Organizations in Support: Alameda County Transportation Improvement Authority (Sponsor), American Federation of State, County and Municipal Employees

2. Arguments by Those in Opposition

There is no known opposition.

3. Creates "Piece-meal" Reform

The piecemeal approach of this bill – creating a vesting option for a single agency – is less desirable than providing an option which will be useable for this, and other agencies.

AB 468 seeks to codify the ACTIA Board's recommended vesting schedule. In 2007, West County Water District also sought legislation to codify a special vesting schedule after negotiating a contract option not available under PEMHCA. AB 524 was enrolled, but vetoed by the Governor due to the State Budget delay. This practice of codifying language after contract and/or other negotiations could undermine the Board's ability to manage PEMHCA and could diminish the Board's authority to control and administer the program.

4. Other Public Agencies May Benefit From Greater Flexibility

This bill addresses a broader issue applicable to most contracting agencies. Vesting schedules for public agencies under PEMHCA are static and not flexible to negotiation. The responsibility for Other Postretirement Employment Benefits (OPEB), including health care benefits for PEMHCA employees moving from one public agency to another, falls entirely to the final employer in most situations, regardless of time spent with that employer. The GASB 45 reporting requirements for OPEB has employers looking for ways to lower their unfunded liabilities.

Locally negotiated contracts and other agreements, later codified in law may result in significant adverse impact to the PEMHCA program by creating inconsistency and increased complexity. In contrast, greater flexibility for contracting agencies could more easily be administered if this practice were consistently applied under general standards.

5. School Districts Have An Option Not Available To Contracting Agencies

More flexible contract options are currently available to school employers. This option protects the rights and benefits of school retirees while allowing school employers and active employees to negotiate health contribution agreements for future retirees which may differ from those established for past retirees. Current law allows school employees to negotiate the best mix of current and future benefits for themselves while holding intact the benefit design of previous retirees. This option provides school employers with far more flexibility than other contracting agencies, which are required to link the impacts of agreements to the date of first hire. Giving all contracting agencies the ability to negotiate employer contributions for future annuitant health care coverage would provide the same vesting options to all employers participating in PEMHCA.

6. Retroactive Health Vesting Schedule

The vesting schedule outlined in the bill will impact all employees hired on or after November 1, 2004. This date was selected because it was the month following ACTIA's Board approval of the vesting schedule. Employees hired after this date were required to sign a contract upon hire authorizing ACTIA to change their post-retirement health benefit schedule should the proposal be codified. Currently, three employees would be affected by the adoption of the new vesting schedule: the Authority Clerk, Programs Coordinator, and Associate Transportation Engineer.

7. Language Inconsistencies

The current language in the bill is inconsistent with the language used in PEMHCA to outline a graduating vesting schedule and, as a result, is unclear at times. The language should be amended to mirror Government Code section 22893 to ensure consistency within PEMHCA and to ensure the vesting schedule is implemented and administered properly.

8. Legislative Policy Standards

CalPERS' Legislative Policy Standards suggest a neutral position for bills which are appropriately subject to collective bargaining and are consistent with other board policies. Along those lines AB 468 would codify a health vesting schedule agreed to between ACTIA and its unrepresented employees. Therefore staff recommends a Neutral, if amended position on AB 468. The suggested amendments would be technical in nature.

V. STRATEGIC PLAN:

This item is not a specific product of the Annual or Strategic Plans, but is a part of the regular and ongoing workload of the Office of Governmental Affairs.

VI. RESULTS/COSTS:

This bill codifies the ACTIA Board's proposed post-retirement health vesting schedule that would provide an employee 50 percent of the employer contribution amount after five years of credited service increasing by five percent each year until the employee reaches 100 percent after 15 years. Currently this provision would only apply to three out of nine ACTIA employees.

Program Cost

Although this new vesting schedule would allow employees to become fully vested in fewer years, the actual employer contribution amount and OPEB liability should be lower because the employer contribution would be based on the self-alone premium only.

Administrative Costs

Minimal administrative costs would be required to accept a change in the vesting schedule for ACTIA.

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